

**§215.5 Notice and comment on proposed actions.**

(a) *Annual notice of newspapers.* Annually, each Regional Forester shall, through notice published in the FEDERAL REGISTER, advise the public of the principal newspapers to be utilized for publishing notices required by this section.

(b) *Manner of giving notice.* (1) The Responsible Official shall publish notice of proposed actions as specified in §215.3 in a newspaper of general circulation identified pursuant to the requirements of paragraph (a) of this section.

(2) The Responsible Official also shall give the public notice of the opportunity to comment on proposed actions subject to this part as follows:

(i) For proposed actions requiring an environmental assessment, the Responsible Official shall promptly mail the environmental assessment along with a letter identifying the proposed action to any person who has requested it and to persons who are known to have participated in the environmental analysis process.

(ii) For proposed timber harvest actions categorically excluded from documentation under Forest Service Handbook 1909.15, section 31.2, paragraph 4, the Responsible Official shall promptly mail a letter briefly describing the proposed to any person who has requested notice, to persons who are on a mailing list to receive notice of this type of decision, or to persons who are known to have participated in the decisionmaking process.

(c) *Content of the public notice for comment on proposed actions.* All notices provided or published pursuant to this section shall include the following:

(1) The title and brief description of the proposed action;

(2) A general description of the proposed action location;

(3) Instructions on how to obtain additional information on the proposed action;

(4) The name, title, address, and telephone number of the Responsible Official to whom comments should be addressed; and

(5) The date the comment period ends (§215.6(a)).

**§215.6 Response to comments received on proposed actions.**

(a) *Comment period.* The Responsible Official shall accept comments on an proposed action subject to §215.3 for 30 days following the date of publication of the notice for public comment. Both oral and written comments shall be accepted. The 30-day period for comment begins on the first day after publication of notice. Saturdays, Sundays, and Federal holidays are included in computing all time periods in this section; however, when the comment period ends on a Saturday, Sunday, or Federal holiday, the comment period shall be extended to the close of business of the next Federal working day.

(b) *Submission.* Persons expressing an interest or submitting comments to the Responsible Official in response to a notice published or provided pursuant to §215.5 shall provide the following information, which will become a matter of public record:

(1) Name, address, and (if possible) telephone number;

(2) Title of the document(s) on which comment is being submitted; and

(3) Specific facts or comments along with supporting reasons that the person believes the Responsible Official should consider in reaching a decision.

(c) *Timeliness.* It is the responsibility of persons providing comments to submit them by the close of the comment period.

(1) When comments are received, the Responsible Official shall clearly identify the date of receipt.

(2) The Responsible Official must consider all written comments postmarked or facsimile imprinted by the close of business on the 30th day following publication of the notice (§215.5) and all oral comments received by the close of business on the 30th day following publication of the notice.

(d) The Responsible Official shall address comments received from the public during the comment period in an appendix to the environmental assessment. For proposed timber harvest actions to be categorically excluded from documentation under Forest Service Handbook 1909.15, section 31.2, paragraph 4, public comments and responses to them shall be placed in the project file.

(e) Notes of oral comments received in response to a notice for public comment pursuant to §215.5 shall be placed in the files and addressed pursuant to paragraph (d) of this section.

#### **§215.7 Decisions subject to appeal.**

Only the following decisions are subject to appeal under this part:

(a) Project and activity decisions documented in a Record of Decision or Decision Notice, including those which, as a part of the project approval decision, contain a nonsignificant amendment to a National Forest Land and Resource Management Plan (36 CFR 219.10).

(b) Timber harvest project and activity decisions as described in paragraph 4, Section 31.2 of Forest Service Handbook 1909.15 which are documented in a decision memo.

#### **§215.8 Decisions not subject to appeal.**

(a) The following decisions are not subject to appeal under this part:

(1) Project or activity decisions included in a Record of Decision for significant amendment, revision, or approval of a land and resource management plan, appeal of which is governed by 36 CFR part 217;

(2) Preliminary findings made during planning and/or analysis processes. Such findings are appealable only upon issuance of a decision document;

(3) Actions for which notice and opportunity to comment have been published and on which no expression of interest has been received during the comment period (§215.6), and on which the Responsible Official's decision does not modify the proposed action; and

(4) Decisions for actions that have been categorically excluded from documentation in an environmental assessment or environmental impact statement in FSH 1909.15, Section 31.1 and 31.2, except as noted in §215.7(b).

(b) In addition to decisions excluded from appeal by paragraph (a) of this section, the Appeal Deciding Officer shall dismiss any appeal filed on subsequent implementing actions that result from the initial project decision subject to appeal under §215.7. For example, an initial decision to offer a timber sale is appealable under this part; subsequent implementing actions to ad-

vertise or award that sales are not appealable under this part.

(c) Decisions solely affecting the business relationship between the Forest Service and holders of written instruments regarding occupancy and use of National Forest System lands can be appealed by permit holders under either 36 CFR part 251, subpart C, or this part, but cannot be appealed under both regulations.

#### **§215.9 Notice of decisions.**

(a) *Publication of public notice.* The Responsible Official shall publish a notice of any decision which is subject to notice and comment under §215.3 in a newspaper of general circulation identified pursuant to the requirements of §215.5(a).

(b) *Publication of notice of a decision.* A notice of a decision published pursuant to this section shall:

(1) Include the decision title and a concise description of the action(s) to be taken, the name and title of the Responsible Official, and instructions for obtaining a copy of the decision document;

(2) Except for decisions on which no expression of interest was received during the comment period §215.8(4), state that the decision is subject to appeal pursuant this part and include the following:

(i) State the name and address of the Appeal Deciding Officer with whom an appeal should be filed;

(ii) Specify that an appeal must be postmarked and submitted to the Appeal Deciding Officer within 45 days of the date of publication in accordance with §215.13;

(3) For those decisions on which no comment was received, state that the decision is not subject to appeal pursuant to §215.8(a)(4).

(c) *Mailing decision documents.* The Responsible Official shall promptly mail the decision document to those who request the specific document and to those who submitted comments on the proposed action either before or during the comment period provided pursuant to §215.6.